

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 520

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE IDAHO VIDEO SERVICE ACT; AMENDING TITLE 50, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 30, TITLE 50, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR FRANCHISING AUTHORITY, USE OF PUBLIC RIGHTS-OF-WAY AND MODIFICATIONS OF EXISTING FRANCHISE AGREEMENTS, TO PROVIDE FOR FEES, TO REQUIRE THE HOLDER OF A CERTIFICATE TO PROVIDE SERVICE WITHIN A CERTAIN PERIOD AND TO PROVIDE FOR REVOCATION OF CERTIFICATE FOR NONCOMPLIANCE, TO PROVIDE CUSTOMER ACCESS TO COMMUNITY PROGRAMMING, TO PROVIDE A VIDEO SERVICE PROVIDER FEE WITH DEFINITIONS, TO PROVIDE FOR NONDISCRIMINATION BY GOVERNMENTAL ENTITIES RELATING TO USE OF PUBLIC RIGHTS-OF-WAY, TO PROHIBIT DISCRIMINATION AMONG POTENTIAL RESIDENTIAL SUBSCRIBERS, TO PROVIDE FOR CUSTOMER SERVICE STANDARDS, TO PROVIDE FOR APPLICABILITY OF OTHER LAW; AND TO PROVIDE SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 50, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 30, Title 50, Idaho Code, and to read as follows:

CHAPTER 30  
IDAHO VIDEO SERVICE ACT

50-3001. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Video Service Act."

50-3002. DEFINITIONS. As used in this chapter:

(1) "Access to video service" means the capability of a video service provider to provide video service at a household address irrespective of whether a subscriber has ordered the service or whether the service is actually provided at that address.

(2) "Actual competition" means the physical installation and activation of a network to provide video service by a nonincumbent video service provider anywhere within a political subdivision.

(3) "Cable service" has the meaning ascribed to it in 47 U.S.C. section 522, as that section existed on January 1, 2010.

(4) "Cable system" has the meaning ascribed to it in 47 U.S.C. section 522, as that section existed on January 1, 2010.

(5) "Certificate of franchise authority" means a certificate issued by the Idaho secretary of state to a video service provider pursuant to the provisions of this chapter.

(6) "Franchise" has the meaning ascribed to it in 47 U.S.C. section 522, as that section existed on January 1, 2010. However, a certificate of

franchise authority issued pursuant to section 50-3003, Idaho Code, shall constitute a franchise for the purposes of 47 U.S.C. section 522.

(7) "Franchising entity" means the city, county or state authorized by state or federal law to grant a franchise.

(8) "Incumbent cable service provider" means a person who provides cable service and holds a franchise issued by a franchising entity prior to July 1, 2010.

(9) "Local unit of government" means a city, county or other governmental entity of the state of Idaho having maintenance and operation responsibility over the public rights-of-way within an area for which a franchise or certificate of franchise authority has been issued by a franchising entity.

(10) "Nonincumbent video service provider" means:

(a) A person authorized under the provisions of this chapter to provide video service in an area in which cable service is being provided by an incumbent cable service provider; or

(b) A person authorized under the provisions of this chapter to provide video service in an area in which, on the effective date of this chapter, there was no incumbent cable service provider providing cable service.

(11) "Political subdivision" means a city or county of the state of Idaho.

(12) "Public rights-of-way" means the area on, below or above a public roadway, highway, street, public sidewalk, alley, waterway or utility easement dedicated for compatible uses.

(13) "System operator" means any person or group of persons who provide video service and directly, or through one (1) or more affiliates, own a significant interest in the system or facilities through which the video service is provided and which person has been issued a certificate of franchise authority pursuant to the provisions of this chapter.

(14) "Video service" means video programming service provided primarily through equipment or facilities located in part within the public rights-of-way without regard to the delivery technology. The term includes cable service, but excludes any video programming provided to persons in their capacity as subscribers to commercial mobile service as defined in 47 U.S.C. section 332(d), or video programming provided as a part of and via a service that enables end users to access content, information, electronic mail or other services offered over the public internet.

(15) "Video service provider" means a provider of video service, and includes an incumbent cable or multichannel video service provider, a nonincumbent video service provider or a system operator, unless the context in which the term is used indicates otherwise.

(16) "Video service provider fee" means the amount paid by a system operator pursuant to section 50-3007, Idaho Code.

50-3003. FRANCHISING AUTHORITY -- USE OF PUBLIC RIGHTS-OF-WAY -- MODIFICATIONS OF EXISTING FRANCHISE AGREEMENTS. (1) On and after July 1, 2010, no person shall offer video service within the state of Idaho unless such person:

(a) Is an incumbent cable service provider providing cable service within an existing franchise area by permission of, or pursuant to, a

franchise from a political subdivision in effect on the effective date of this chapter or a subsequent renewal thereof; or

(b) Has been granted a certificate of franchise authority to do business in the state of Idaho as a system operator by the Idaho secretary of state as required in this chapter.

(2) Any person that meets the requirements of subsection (13) of this section seeking a certificate of franchise authority to provide video service shall submit an application that sets forth the following information:

(a) The name of the applicant and the address of its principal place of business within the state of Idaho and the names of the applicant's principal executive officers and its primary Idaho representative;

(b) A specific identification of the political subdivision(s), or portion thereof, wherein the applicant intends to provide video service;

(c) The date on which the applicant intends to begin providing video service in each political subdivision or portion thereof;

(d) Verification signed by an officer or general partner of the applicant that:

(i) The applicant has filed with the federal communications commission all forms required by that agency in advance of offering video service in this state; and

(ii) That the applicant is legally, financially and technically qualified to provide video service; provided however, that a cable operator that was providing service in Idaho pursuant to a franchise in effect on the day before the effective date of this section shall be deemed to be legally, financially and technically qualified to provide service;

(e) Verification that the applicant has procured and will maintain comprehensive general liability insurance coverage and automobile liability insurance coverage underwritten by one (1) or more companies licensed to do business in the state of Idaho in an amount not less than the minimum insurance requirement amount for governmental entities as established in section 6-924, Idaho Code.

(3) The application shall be accompanied by a filing fee as established in section 50-3004, Idaho Code. Within thirty (30) days after its filing or within thirty (30) days after the filing of supplemental information necessary to make it complete, the secretary of state shall determine the completeness of an application or, if applicable, shall notify the applicant of an incompleteness of determination, state the basis for that determination, and inform the applicant that it may resubmit a correct application. The secretary of state shall issue a certificate of franchise authority within fifteen (15) days after the secretary of state's determination that the filed application is complete and in compliance. Promptly, upon issuance of a certificate of franchise authority, the secretary of state shall provide written notice of such issuance to the clerk(s) of the political subdivision(s) wherein video service is to be provided.

(4) Persons that have received a certificate of franchise authority as set forth in this section may use the public rights-of-way of the state and

1 any political subdivision, subject to provisions of state law and applicable  
2 local ordinance.

3 (5) A certificate of franchise authority is subject to the system  
4 operator's maintaining the qualifications necessary to initially obtain  
5 a certificate of franchise authority. Any holder of a certificate of  
6 franchise authority issued pursuant to this chapter shall immediately  
7 notify the secretary of state of its failure to meet the standards  
8 established for initial qualification for a certificate of franchise  
9 authority and the holder's certificate of franchise authority shall be  
10 deemed to be revoked by operation of law without the need for any notice,  
11 hearing or action by the secretary of state. Use and occupancy by a system  
12 operator of the public right-of-way in the delivery of video service shall  
13 be subject to the laws of this state and the police powers of the political  
14 subdivision having jurisdiction over the public right-of-way in which the  
15 service is to be delivered.

16 (6) No provision of this chapter shall diminish or otherwise limit  
17 the authority of a local unit of government to enact nondiscriminatory,  
18 competitively neutral local laws to govern the use or maintenance of public  
19 rights-of-way as otherwise provided by law. No local unit of government  
20 shall unreasonably deny a holder of a certificate of franchise authority  
21 the use of public rights-of-way to provide video service where a system  
22 operator complies with the provisions of the applicable local ordinance or  
23 ordinances governing the use of the public rights-of-way, or in the absence  
24 of such ordinances, with the provisions of this chapter and other provisions  
25 of state law.

26 (7) If no local ordinance regulates installation of physical  
27 facilities within public rights-of-way, the following requirements  
28 shall be deemed the minimum standards for such activities:

29 (a) At least thirty (30) days prior to contemplated construction within  
30 public rights-of-way, a specific description of the locations where  
31 facilities are proposed to be installed within the public right-of-way  
32 and the construction methods that are proposed must be provided to the  
33 local unit of government responsible for right-of-way procurement or  
34 maintenance.

35 (b) A certificate of franchise authority granted pursuant to  
36 this chapter carries with it an obligation to respect orderly  
37 management and maintenance of public rights-of-way. Any video  
38 service provider authorized hereby to use public rights-of-way shall  
39 employ sound construction practices to maintain the integrity of  
40 public improvements and preexisting right-of-way conditions and  
41 shall be responsible for repair or replacement of any improvements or  
42 maintenance or restoration of any conditions disrupted by construction  
43 activities. The video service provider shall cause any such repairs to  
44 be made promptly and in a manner that complies with adopted standards  
45 or as otherwise appropriate to restore the right-of-way to conditions  
46 existing before installation.

47 (c) The certificate of authority granted pursuant to this chapter  
48 also carries a duty to coordinate installation of any physical  
49 plant in public rights-of-way with public utilities or municipal  
50 services already using or contemplating use of the same or related

1 rights-of-way. Such coordination should endeavor to minimize  
2 conflicts and avoid damage to existing or otherwise planned facilities.

3 (d) No local unit of government with authority or responsibility to  
4 procure or maintain public rights-of-way shall discriminate against a  
5 holder of a certificate of franchise authority issued pursuant to this  
6 chapter with respect to access to rights-of-way or issuance of permits  
7 to install facilities in public rights-of-way.

8 (8) A certificate of franchise authority shall be nonexclusive and  
9 shall be for an initial term of ten (10) years, subject to changes in federal  
10 law. A certificate of franchise authority may be renewed for additional ten  
11 (10) year periods for system operators in compliance with the requirements  
12 in subsection (2) of this section.

13 (9) A certificate of franchise authority may be transferred to any  
14 successor of the system operator to which the certificate of franchise  
15 authority was initially issued upon the successor filing an application  
16 containing the same information as required in subsection (2) of this  
17 section. Any successor may only undertake operation and maintenance of  
18 video facilities pursuant to an approved certificate of franchise authority  
19 upon providing notice to the local unit of government with jurisdiction  
20 concerning the public rights-of-way to be used. A successor shall be  
21 responsible to conform to approved plans and permits and to coordinate  
22 installation and maintenance as required by the local unit of government.

23 (10) A certificate of franchise authority may be terminated by the  
24 system operator by submitting a written notice to the secretary of state and  
25 any affected local unit of government. No approval of the termination of  
26 the certificate of franchise authority shall be required by the secretary  
27 of state or by any affected local unit of government. Termination of a  
28 certificate of franchise authority shall not relieve a system operator of  
29 any subsequent obligation to mitigate the effects of abandoned physical  
30 facilities remaining in any public right-of-way.

31 (11) To the extent required for the purposes of 47 U.S.C. sections 521  
32 through 561, the state of Idaho shall constitute the franchising authority  
33 for system operators in the state of Idaho.

34 (12) No local unit of government or other political subdivision of the  
35 state of Idaho may require a system operator to obtain a franchise, license,  
36 permit or other authorization from the local unit of government or political  
37 subdivision or impose any fee or impose any other requirement for the  
38 provision of video services within the geographic territory of such local  
39 unit of government or political subdivision, unless such fee or requirement  
40 is expressly authorized by this chapter.

41 (13) (a) Any person may submit an application for a certificate of  
42 franchise authority, including an incumbent cable service provider,  
43 when applying for a certificate of franchise authority for an area in  
44 a political subdivision for which area the provider does not hold a  
45 franchise issued by a franchising entity prior to July 1, 2010.

46 (b) An incumbent cable service provider may submit an application  
47 for a certificate of franchise authority for an area described in the  
48 provider's franchise issued by a franchising entity prior to July 1,  
49 2010, when:

(i) Such incumbent cable service provider faces actual competition by another system operator within the incumbent cable service provider's existing franchise area; or

(ii) Upon the expiration of a franchise agreement held by an incumbent cable service provider prior to July 1, 2010.

(c) Upon the granting of a certificate of franchise authority to an incumbent cable service provider for an area described in the provider's franchise issued by a franchising entity prior to July 1, 2010, the provider's existing franchise shall no longer be of any force or effect and shall not be enforceable by the local unit of government of this state. The local unit of government shall promptly return to the video service provider any letter of credit, performance bond, security deposit, certificate of insurance or any other similar instrument.

(d) It shall be in an incumbent cable operator's sole discretion to determine, in each area where it provides cable service, whether or not to apply for a certificate of franchise authority, to continue to provide service under an existing franchise or to renew an existing franchise.

50-3004. FEES. (1) In carrying out the provisions of this chapter, the secretary of state shall charge and collect the fees set forth in this section.

(2) The filing fee for accepting an application for a certificate of franchise authority shall be two hundred dollars (\$200).

(3) The filing fee for accepting an amendment to a certificate of franchise authority shall be thirty dollars (\$30.00).

50-3005. HOLDER OF CERTIFICATE -- PROVISION OF SERVICE WITHIN CERTAIN PERIOD -- REVOCATION OF CERTIFICATE FOR NONCOMPLIANCE. (1) Not later than twenty-four (24) months after the date on which the secretary of state issues a certificate of franchise authority pursuant to section 50-3003, Idaho Code, the holder of the certificate must have the capability to offer and to provide video service to at least one (1) subscriber who resides within the territorial boundaries of each service area identified in and authorized by the certificate.

(2) If a holder fails to comply with the provisions of subsection (1) of this section, the holder's certificate of franchise authority shall be deemed to be revoked by operation of law without the need for any notice, hearing or action by the secretary of state.

50-3006. CUSTOMER ACCESS TO COMMUNITY PROGRAMMING. (1) A system operator shall designate one (1) or more channels to allow the provision of noncommercial public, educational and governmental (PEG) noncommercial programming, as follows:

(a) Designate the same number of channels equal to that which has been activated by an incumbent cable service provider on July 1, 2010. Such channels shall be located on the same channel location on the system operator's channel lineup as the incumbent cable service provider.

(b) If there is no incumbent cable service provider or no PEG channels have been activated within the jurisdictional limits of the political

1 subdivision on July 1, 2010, the system operator shall provide a maximum  
2 of two (2), in total, public, educational and governmental channels for  
3 a political subdivision with a population of at least fifty thousand  
4 (50,000), and one (1), in total, public, educational and governmental  
5 channel for a political subdivision with a population of less than fifty  
6 thousand (50,000); provided however, that a local unit of government  
7 may waive the PEG requirements of this section.

8 (c) The limits set forth in paragraphs (a) and (b) of this subsection  
9 (1) shall constitute the total number of PEG channels that may be  
10 required of a system operator using a common headend to provide video  
11 service to customers in one (1) or more political subdivisions,  
12 regardless of the number of political subdivisions served by such  
13 headend. The respective populations of all political subdivisions  
14 served by such video service networks shall be aggregated for the  
15 purpose of applying such limits.

16 (d) The PEG channels provided pursuant to subsection (1)(c) of this  
17 section may be located by the system operator on any tier of service  
18 subscribed to by more than fifty percent (50%) of a video provider's  
19 subscribers. The PEG access channel capacity provided shall be of  
20 similar quality and functionality to that offered by commercial  
21 channels on such tier of service unless the signal is provided to the  
22 video service provider at a lower quality or with less functionality.

23 (2) The production and content of any programming aired on any PEG  
24 access channel shall be solely the responsibility of the public, educational  
25 and governmental agencies receiving the benefit of such capacity. The  
26 system operator shall bear the responsibility for the transmission of such  
27 content only to the extent that such content complies with the requirements  
28 of subsection (3) of this section.

29 (3) The public, educational or governmental agency producing the  
30 PEG programming and transmitting it to the system operator shall ensure  
31 that all transmissions, content or programming are provided or submitted  
32 in a manner or form that is compatible with the video service provider's  
33 network, as that may change from time to time. Governmental entities  
34 utilizing PEG access channels shall make the programming of any PEG access  
35 channels available to all video service providers providing service within  
36 such governmental entity's jurisdiction in a nondiscriminatory manner.  
37 Each system operator shall be responsible for providing one (1) point of  
38 connectivity to the governmental entity's PEG access channel distribution  
39 point within the jurisdiction to be served. The governmental entity  
40 providing PEG programming may request a change of the point of connectivity  
41 but shall pay the system operators all costs associated with the change of  
42 the point of connectivity.

43 (4) No franchising entity may require a video service provider to  
44 provide any institutional network or equivalent capacity on its video  
45 service network.

46 (5) Where technically feasible, a video service provider shall  
47 use reasonable efforts to interconnect its video network for the  
48 purpose of sharing PEG programming with other video service providers.  
49 Interconnection may be accomplished by direct cable, microwave link,  
50 satellite or other reasonable method of connection. Video service providers

1 shall negotiate in good faith to provide interconnection of PEG access  
2 channels. The video service provider requesting interconnection shall pay  
3 all costs for such interconnection.

4 (6) A political subdivision may not require a video service provider to  
5 provide any funds, services, programming, facilities or equipment related  
6 to public, educational or governmental use of PEG access channel capacity.  
7 The operation of any PEG access channel provided pursuant to this section  
8 and the production of any programming that appears on each such channel  
9 shall be the sole responsibility of the governmental entity receiving the  
10 benefit of such channel, and the video service provider shall bear only the  
11 responsibility for the transmission of the programming on each such channel  
12 to subscribers and the initial cost of connecting to existing and obligated  
13 PEG access channels.

14 50-3007. VIDEO SERVICE PROVIDER FEE. (1) Every system operator  
15 acting pursuant to authorization provided in this chapter shall pay to the  
16 political subdivision in which it provides video service a fee as required in  
17 this section. For the purposes of this section, subscribers whose service  
18 address is within the jurisdictional limits of a city shall be deemed city  
19 subscribers and those subscribers whose service address is outside the  
20 jurisdictional limits of a city shall be deemed county subscribers.

21 (2) The obligation to pay such fee shall commence upon commencement of  
22 the provision of video service to subscribers. The video service provider's  
23 fee shall be paid to the political subdivision in which it provides video  
24 service on a quarterly basis, forty-five (45) days after the close of  
25 each calendar quarter, and shall be calculated as a percentage of gross  
26 revenues, as defined in subsection (4) of this section. Except as provided  
27 in section 50-3008, Idaho Code, the political subdivision may not require  
28 any additional fees or charges from the system operator and may not require  
29 the use of any other calculation method.

30 (3) The percentage to be applied against gross revenues pursuant to  
31 this section shall be set annually by the political subdivision in an amount  
32 equal to the percentage paid by an incumbent cable service provider or five  
33 percent (5%), whichever is less. If there is no incumbent cable service  
34 provider having a franchise agreement with the political subdivision, or  
35 if a political subdivision has not previously established and assessed  
36 such fee to an incumbent cable service provider, the fee to be paid shall be  
37 established annually by ordinance by the political subdivision, but shall in  
38 no event be in excess of five percent (5%) of the gross revenues, as set forth  
39 in subsection (4) of this section. Nothing herein prohibits a political  
40 subdivision from applying a fee percentage that is less than five percent  
41 (5%) so long as such fee is applicable to all video service providers within  
42 the political subdivision, regardless of whether they provide video service  
43 pursuant to a local franchise or a certificate of franchise authority.

44 (4) (a) For purposes of this section:

45 (i) "Gross revenues" means all revenues, calculated in  
46 accordance with generally accepted accounting principles (GAAP),  
47 that are received by the system operator from subscribers  
48 for providing video service to video subscribers within the



jurisdictional limits of the political subdivision. Gross revenues shall include the following:

1. All recurring charges and fees paid by subscribers for the provision of video service, including equipment rental, late fees, insufficient funds fees and fees attributable to video service when sold individually or as part of a package or bundle, or functionally integrated, with services other than video services;

2. Event-based charges for video service, including pay-per-view and video-on-demand;

3. Any other consideration a video service provider receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of a franchise fee if such consideration is not included in revenue, except for revenue excluded pursuant to subparagraph (ii) of this subsection (4) (a).

(ii) "Gross revenues" does not include:

1. Any revenues not actually received, even if billed, such as bad debt, net of any recoveries of bad debt;

2. Refunds, rebates, credits or discounts to subscribers or a local unit of government to the extent not already offset by subparagraph (i) of this subsection (4) (a) and to the extent the refund, rebate, credit or discount is attributable to the video service;

3. Any revenues received by the system operator or its affiliates from the provision of services or capabilities other than video service, including advertising sales, telecommunications services, information services, home shopping or similar programming advertising, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with video service;

4. Any revenues received by the provider or its affiliates for the provision of directory or internet advertising, including yellow pages, white pages, banner advertisement and electronic publishing;

5. Any amounts attributable to the provision of video service to customers at no charge, including the provision of such service to public institutions without charge;

6. Amounts billed to video service subscribers to recover taxes, fees, surcharges or assessments imposed on a video service provider or a video customer or otherwise collected by a video service provider from video service subscribers for pass-through to any federal, state or local government agency, including the franchise fee and the FCC user fee;

7. Any foregone revenue from the provision of video service at no charge to any person, except that any foregone revenue exchanged for trade, barter, service or other item of value shall be included in gross revenue;

8. Sales of capital assets or surplus equipment;

1           9. Reimbursement by programmers of marketing costs actually  
2           incurred by the provider for the promotion of programming;  
3           or

4           10. The sale of video service for resale to the extent  
5           the purchaser certifies in writing that it will resell the  
6           service and pay a video service provider fee with respect to  
7           the service.

8           (b) In the case of a video service that is bundled or integrated  
9           functionally with other services, capabilities or applications, the  
10          portion of the system operator's revenue attributable to the other  
11          services, capabilities or applications shall be included in gross  
12          revenues unless the provider can reasonably identify the division or  
13          exclusion of the revenue from its books and records that are kept in the  
14          regular course of business.

15          (c) Revenue of an affiliate shall be included in the calculation of  
16          gross revenues to the extent the treatment of the revenue as revenue of  
17          the affiliate would have the effect of evading the payment of the video  
18          service provider fee that would otherwise be paid for video service.

19          (5) Payment of the fees as required in this section shall be accompanied  
20          by a written report identifying the amount of revenues by category of service  
21          and the number of customers receiving each category of service, if any. A  
22          political subdivision may, upon reasonable advance written notice, but  
23          not more frequently than once in any calendar year, review the business  
24          records of a system operator to the extent necessary to ensure proper  
25          and accurate payment of the video service provider fee. A video service  
26          provider shall provide sufficient information about such revenues to a  
27          political subdivision to allow a proper compliance review by such political  
28          subdivision. The system operator shall keep all business records reflecting  
29          any gross revenues, even if there is a change in ownership, for at least three  
30          (3) years after those revenues are recognized by the system operator on its  
31          books and records. All records reasonably necessary for the audit shall, at  
32          the discretion of the political subdivision, be made available by the system  
33          operator at the location within the jurisdiction where the records are kept  
34          in the ordinary course of business, or may be provided electronically to the  
35          political subdivision with its consent. The political subdivision and the  
36          system operator shall each be responsible for their respective costs of the  
37          audit, unless the audit discloses that the system operator has underpaid  
38          the video service provider fee by more than seven percent (7%) during the  
39          examination period, in which case the system operator shall pay all of the  
40          reasonable and actual costs of the audit. Any undisputed amount or refund  
41          due to the political subdivision or the system operator shall be paid within  
42          sixty (60) days, plus interest at the statutory rate on civil judgments.

43          (6) Any system operator may identify and collect the amount of the video  
44          service provider fee as a separate line item on the regular bill of each  
45          subscriber.

46          (7) Any city annexing lands shall notify a system operator in writing  
47          of any such annexation, including a description of the territory annexed.  
48          Beginning the first day of the calendar quarter occurring after the system  
49          operator has received at least forty-five (45) days' notice of annexation of  
50          customers into the city's corporate limits, subscribers within such annexed

territory shall, for purposes of this section, be considered to be city subscribers.

50-3008. NONDISCRIMINATION BY GOVERNMENTAL ENTITIES RELATING TO USE OF PUBLIC RIGHTS-OF-WAY. (1) A local unit of government shall allow the holder of a certificate of franchise authority to install, construct and maintain facilities within public rights-of-way, over which the local unit of government has jurisdiction, to enable the provision of video services to subscribers to such services. The local unit of government shall provide the holder of such certificate of franchise authority open, comparable, nondiscriminatory and competitively neutral access to the public rights-of-way within its jurisdiction.

(2) A local unit of government may not discriminate against the holder of a certificate of franchise authority in any manner, including:

(a) The authorization or placement of facilities in public rights-of-way that is necessary for the provision of video services;

(b) Access to a public building; or

(c) The terms or conditions for access to any utility pole within control of the jurisdiction.

(3) A local unit of government may impose a permit fee on a system operator relating to the opening, closing, inspection or repair of public rights-of-way over which rights-of-way the local unit of government has jurisdiction, but only to the extent it imposes such a fee on incumbent cable service providers and others accessing the public rights-of-way relating to the opening, closing, inspection or repair thereof. Any fee authorized in this section may not exceed the actual costs incurred by the local unit of government issuing the permit that are directly related to the system operator's activity in the right-of-way with which the permit is associated. In no event may a fee under this subsection be charged:

(a) If the system operator already has paid a permit fee in connection with the same activity in the public rights-of-way that would otherwise be covered by the permit fee under this section; or

(b) For general revenue purposes.

50-3009. DISCRIMINATION AMONG POTENTIAL RESIDENTIAL SUBSCRIBERS PROHIBITED. A system operator may not deny access to video service to any group of potential residential subscribers because of the income of the residents in the local area in which such group resides. The office of the attorney general is hereby authorized to investigate and enforce the nondiscrimination requirements as provided for in this chapter.

50-3010. CUSTOMER SERVICE STANDARDS. A system operator shall comply with the customer service requirements set forth in 47 CFR 76.309(c), as amended from time to time, and shall maintain a local or toll-free telephone number for customer service contact.

50-3011. APPLICABILITY OF OTHER LAW. (1) The provisions of this chapter are intended to be construed to be consistent with the federal cable communications policy act of 1984, 47 U.S.C. sections 521 through 573.

1       (2) Except as otherwise stated herein, nothing in this chapter shall be  
2 interpreted to prevent an incumbent cable service provider, a nonincumbent  
3 video service provider, a system operator, a local unit of government or a  
4 franchising entity from seeking clarification of its rights and obligations  
5 under federal or state law or to exercise any right or authority under  
6 federal or state law.

7       (3) Nothing in this chapter shall be construed to limit, abrogate  
8 or supersede the provisions of titles 61 and 62, Idaho Code, regarding  
9 telecommunications service within the state of Idaho, nor to require a  
10 telephone corporation to obtain a certificate of franchise authority or  
11 local authorization pursuant to this chapter for the purpose of permitting  
12 or authorizing the telephone corporation to construct, upgrade, operate  
13 or maintain its telecommunications system to provide telecommunications  
14 service.

15       SECTION 2. SEVERABILITY. The provisions of this act are hereby declared  
16 to be severable and if any provision of this act or the application of such  
17 provision to any person or circumstance is declared invalid for any reason,  
18 such declaration shall not affect the validity of the remaining portions of  
19 this act.